HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.17403 OF 2007

Between:

E. Peddi Reddy and another.
...Petitioners

AND

The State of Andhra Pradesh, represented by its
Principal Secretary, GAD,
Secretariat, Hyderabad and others.
...Respondents

:: O R D E R ::

Counsel for the petitioners : Sri S. Ramachandra Rao,
Senior Advocate, assisted by
Sri B. Srinivas.

Counsel for respondent Nos.1,4 and 6 : Sri C.V. Mohan Reddy,
Advocate General.

17th September, 2007

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Per G.S.SINGHVI, C.J.

The petitioners, who are office bearers of Telugu Desam Party, have filed this petition in the name of the public interest litigation for quashing order dated 24-4-2007 vide which Judicial First Class Magistrte, Pulivendula, Kadapa District (respondent No.7) dismissed the complaint filed by respondent No.5 in C.F.R.No.1166 of 2007 in C.C.No._____ / 2007 against respondent No.9 – Dr. Y.S. Rajasekhar Reddy for allegedly filing false affidavit under Section 33-A of the Representation of People Act, 1951 (for short, 'the 1951 Act').

In the elections held for the Andhra Pradesh State Legislative Assembly in 2004, respondent No.9 filed nomination paper on 31-3-2004 for contesting election from 160 – Pulivendula Assembly Constituency. Along with the nomination paper, he filed an affidavit as per the requirement of Section 33-A of the 1951 Act. He was declared elected. Subsequently, he became Chief Minister of the State.

After two years and eight months of the elections, Sri Nara Chandra Babu Naidu, President of Telugu Desam Party lodged complaint dated 16-12-2006 with the Election Commission of India (for short, 'the Commission') for taking action against respondent No.9 on the ground that he had filed false affidavit regarding immovable properties owned by him and his family members. The Commission forwarded the complaint to Chief Electoral Officer, Andhra Pradesh (respondent No.3), who directed the Returning Officer of 160 – Pulivendula Assembly Constituency (respondent No.5 herein) for taking action in accordance with the instructions issued by the Commission vide letter No.3/ER/2004-JS/2, dated 2-6-2004.

Thereafter, respondent No.5 issued notice dated 8-1-2007 to respondent No.9 requiring him to submit remarks in the context of the complaint made by Sri Nara Chandra Babu Naidu. The latter filed reply dated 29-1-2007 and denied the allegation of

having filed false affidavit. After considering the same, respondent No.5 submitted report dated
28-2-2007 to respondent No.3, wherein he opined that there is no substance in the complaint. However, the Commission, to whom report was forwarded by respondent No.3, did not agree with respondent No.5 and directed him to file complaint in an appropriate court.

In compliance of the direction given by the Commission, respondent No.5 filed complaint dated 23-4-2007 under Section 200 of the Code of Criminal Procedure, 1973 and prayed that the accused (respondent No.9) be punished for committing offence under Section 177 IPC. The same was registered as C.F.R.No.1166 of 2007 in C.C.No. Nil of 2007. The complainant (respondent No.5) examined himself as P.W.1 and the Mandal Revenue Officer as P.W.2. He also produced documents marked Exs.P1 t to P12. After considering the statements of P.W.1 and P.W.2 and scrutinising the documents, respondent No.7, vide her order dated 24-4-2007 dismissed the complaint.

The aforementioned order was challenged by respondent No.5 in Criminal Revision Case No.1120 of 2007, which was dismissed by the learned Single Judge vide order dated 14-8-2007. This fact was brought to the notice of the Court by the petitioners through an additional affidavit of petitioner No.2 filed along with WPMP.No.22649 of 2007, which was allowed on 30-8-2007 and the case was adjourned to 7-9-2007 with the direction to the registry to put up with the records of Criminal Revision Case No.1120 of 2007. The needful has been done.

Sri S. Ramachandra Rao, Senior Counsel appearing for the petitioners extensively referred to the averments contained in paragraphs 8 to 14 of the affidavit of petitioner No.1 to show that respondent No.9 has admitted possession of hundreds of acres of land in District Kadapa in his own name, the names of his family members and companies owned and controlled by his family, and

argued that the affidavit filed by him under Section 33-A of the 1951 Act was per se false and amounted to an offence under Section 177 IPC and that respondent No.7 gravely erred by dismissing the complaint lodged by respondent No.5. He submitted that respondent No.5 was not a fit person to be entrusted with the task of filing complaint under Section 200 Cr.P.C. because he has already expressed opinion on the merits of the case and respondent No.7 exhibited extra-ordinary speed in dismissing the complaint. Learned Senior Counsel emphasised that when a complaint is filed by a public servant, the concerned Judicial Magistrate is not required to record his statement as a condition for taking cognizance and that respondent No.7 should have issued notice to respondent No.9 on the basis of the allegations contained in the complaint because the same clearly disclosed commission of an offence under Section 177 IPC. Sri Ramachandra Rao submitted that the hot haste with which respondent No.7 disposed of the complaint lodged by respondent No.5 should be treated as sufficient for this Court to exercise power under Articles 226 and 227 of the Constitution and correct the grave aberration committed by the judicial officer. Learned Senior Counsel then argued that even though Criminal Revision Case No.1120 of 2007 filed by respondent No.5 against order dated 24-4-2007 has been dismissed by the learned Single Judge, the Division Bench should exercise power under Article 226 of the Constitution and correct the jurisdictional error committed by the trial court. He submitted that dismissal of the revision petition does not preclude the writ court from entertaining the cause brought by the petitioners by way of public interest litigation. In support of his arguments, the learned Senior Counsel relied on the judgments of the Supreme Court in **State of U.P. v. Synthetics and Chemicals Ltd.**[1], **S. Thangappan v. P. Padmavathy**[2], **Surya**

Dev Rai v. Ram Chander Rai[3], **State of Kerala v. K. Sarojini Amma**[4], **Central Board of Dawoodi Bohra Community v. State of Maharashtra**[5], **K.H. Siraj v. High Court of Kerala**[6], **Pepsi Foods Ltd. v. Special Judicial Magistrate**[7], **Achutananda Baidya v. Prufullya Kumar Gayen**[8] and **Shama Prashant Raje v. Ganapatrao**[9].

We have given serious thought to the entire matter. In **Guruvayoor Devaswom Managing Committee v. C.K. Rajan**[10], the Supreme Court reviewed various precedents on the ambit and reach of the court's power to entertain petitions filed by way of public interest litigation and laid down the following principles:

> "(i) The Court in exercise of powers under Article 32 and Article 226 of the Constitution of India can entertain a petition filed by any interested person in the welfare of the people who is in a disadvantaged position and, thus, not in a position to knock the doors of the Court. The Court is constitutionally bound to protect the fundamental rights of such disadvantaged people so as to direct the State to fulfil its constitutional promises.
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> (ii) Issues of public importance, enforcement of fundamental rights of a large number of the public vis-vis the constitutional duties and functions of the State, if raised, the Court treats a letter or a telegram as a public interest litigation upon relaxing procedural laws as also the law relating to pleadings.
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> (iii) Whenever injustice is meted out to a large number of people, the Court will not hesitate in stepping in. Articles 14 and 21 of the Constitution of India as well as the International Conventions on Human Rights provide for reasonable and fair trial.
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> (iv) The common rule of locus standi is relaxed so as to enable the Court to look into the grievances complained on behalf of the poor, the depraved (sic), the illiterate and the disabled who cannot vindicate the legal wrong or legal injury caused to them for any violation of any constitutional or legal right.
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> (v) When the Court is prima facie satisfied about variation of any constitutional right of a group of people

belonging to the disadvantaged category, it may not allow the State or the Government from raising the question as to the maintainability of the petition.

(vi) Although procedural laws apply to PIL cases but the question as to whether the principles of res judicata or principles analogous thereto would apply depends on the nature of the petition as also facts and circumstances of the case.

(vii) The dispute between two warring groups purely in the realm of private law would not be allowed to be agitated as a public interest litigation."

(viii) However, in an appropriate case, although the petitioner might have moved a court in his private interest and for redressal of personal grievances, the Court in furtherance of the public interest may treat it necessary to enquire into the state of affairs of the subject of litigation in the interest of justice.

(ix) The Court in special situations may appoint a Commission, or other bodies for the purpose of investigating into the allegations and finding out facts. It may also direct management of a public institution taken over by such Committee."

Keeping in view the above noted guiding principles, we shall now consider whether the order passed by respondent No.7 can be quashed by this Court in exercise of power under Article 226 or Article 227 of the Constitution of India in a petition filed as a piece of public interest litigation and that too by ignoring the fact that the same has been confirmed by the learned Single Judge by dismissing Criminal Revision Case No.1120 of 2007.

Article 226 (1) declared that notwithstanding anything in Article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories, directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose. Article 227 (1) lays down that every High Court shall have superintendence over all Courts and Tribunals

throughout the territories in relation to which it exercises jurisdiction. Clause (2) of Article 227 empowers the High Court to call for returns from the Court subordinate to it and make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts.

The ambit and reach of the High Court's power under Articles 226 and 227 in relation to judicial orders passed by the subordinate courts in civil and criminal cases has been considered by the Supreme Court in several decisions. We may notice some of them.

In **Pepsi Foods Ltd. v. Special Judicial Magistrate** (supra), the Supreme Court considered whether the complaint lodged against the appellant under Section 7 read with Section 16 of the Prevention of Food Adulteration Act, 1954 could be quashed by the High Court in a petition filed under Articles 226 and 227 of the Constitution. While reversing the judgment of Allahabad High Court, which had declined to entertain the appellant's prayer, the Supreme Court laid down the following proposition:

> "It is settled that the High Court can exercise its power of judicial review in criminal matters. In **State of Haryana v. Bhajan Lal {1992 Sup. (1) SCC (Cri.) 426}** this Court examined the extraordinary power under Article 226 of the Constitution and also the inherent powers under Section 482 of the Code which it said could be exercised by the High Court either to prevent abuse of the process of any court or otherwise to secure the ends of justice. While laying down certain guidelines where the court will exercise jurisdiction under these provisions, it was also stated that these guidelines could not be inflexible or laying rigid formulae to be followed by the courts. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any court or otherwise to secure the ends of justice. One of such guidelines is where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused. Under Article 227 the power of superintendence by the High Court is not only of administrative nature but is also of judicial nature. This article confers vast

powers on the High Court to prevent the abuse of the process of law by the inferior courts and to see that the stream of administration of justice remains clean and pure. The power conferred on the High Court under Articles 226 and 227 of the Constitution and under Section 482 of the Code have no limits but more the power more due care and caution is to be exercised while invoking these powers. When the exercise of powers could be under Article 227 or Section 482 of the Code it may not always be necessary to invoke the provisions of Article 226. Some of the decisions of this Court laying down principles for the exercise of powers by the High Court under Articles 226 and 227 may be referred to."

In **Baby v. Travancore Devaswom Board**[11], the Supreme Court considered the question whether the High Court could interfere with the finding of fact recorded by a Tribunal constituted under Section 103 of Kerala Land Reforms Act, 1964 and held:

> "But that, in our opinion, is not the end of the matter. The High Court had still powers under Article 227 of the Constitution of India to quash the orders passed by the tribunals if the findings of fact had been arrived at by non-consideration of the relevant and material documents the consideration of which could have led to an opposite conclusion. This power of the High Court under the Constitution of India is always in addition to the powers of revision under Section 103 of the Act. In that view of the matter the High Court rightly set aside the orders of the tribunals. We do not, therefore, interfere under Article 136 of the Constitution of India. The appeals fail and are dismissed."

The above proposition was reiterated in **State of Kerala v. K. Sarojini Amma** (supra).

In **Shama Prashant Raje v. Ganpatrao** (supra), the Supreme Court considered the question whether an order passed by the Appellate Authority constituted under C.P. & Berar Letting of Houses and Rent Control Order, 1949 could be quashed in a petition filed under Articles 226 and 227 and held:

> "… Undoubtedly, in a proceeding under Articles 226 and 227 of the Constitution the High Court cannot sit in appeal over the findings recorded by a competent Tribunal. The jurisdiction of the High Court, therefore, is supervisory and not appellate. Consequently Article 226 is not intended to enable the High

Court to convert itself into a Court of Appeal and examine for itself the correctness of the decision impugned and decide what is the proper view to be taken or order to be made. But notwithstanding the same on a mere perusal of the order of an inferior Tribunal if the High Court comes to a conclusion that such Tribunal has committed manifest error by mis-construing certain documents, or the High Court comes to the conclusion that on the materials it is not possible for a reasonable man to come to a conclusion arrived at by the inferior Tribunal or the inferior Tribunal has ignored to take into consideration certain relevant materials or has taken into consideration certain materials which are not admissible, then the High Court will be fully justified in interfering with the findings of the inferior Tribunal."

In **Surya Dev Rai v. Ram Chander Rai** (supra), the Supreme Court considered the impact of the amendment made in Section 115 C.P.C. on the power and jurisdiction of the High Court to entertain petitions under Articles 226 and/or 227 of the Constitution and observed:

" Article 227 of the Constitution confers on every High Court the power of superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction excepting any court or tribunal constituted by or under any law relating to the armed forces. Without prejudice to the generality of such power the High Court has been conferred with certain specific powers by clauses (2) and (3) of Article 227 with which we are not concerned hereat. It is well settled that the power of superintendence so conferred on the High Court is administrative as well as judicial, and is capable of being invoked at the instance of any person aggrieved or may even be exercised suo motu. The paramount consideration behind vesting such wide power of superintendence in the High Court is paving the path of justice and removing any obstacles therein. The power under Article 227 is wider than the one conferred on the High Court by Article 226 in the sense that the power of superintendence is not subject to those technicalities of procedure or traditional fetters which are to be found in certiorari jurisdiction. Else the parameters invoking the exercise of power are almost similar.

The history of supervisory jurisdiction exercised by the High Court, and how the jurisdiction has culminated into its present shape under Article 227 of the Constitution, was traced in **Waryam Singh v . Amarnath {AIR 1954 SC 215}**. The jurisdiction can be traced back to Section 15 of the High Courts Act, 1861 which gave a power of judicial superintendence to the

High Court apart from and independently of the provisions of other laws conferring revisional jurisdiction on the High Court. Section 107 of the Government of India Act, 1915 and then Section 224 of the Government of India Act, 1935, were similarly worded and reproduced the predecessor provision. However, sub-section (2) was added in Section 224 which confined the jurisdiction of the High Court to such judgments of the inferior courts which were not otherwise subject to appeal or revision. That restriction has not been carried forward in Article 227 of the Constitution. In that sense Article 227 of the Constitution has width and vigour unprecedented.

The Supreme Court then proceeded to hold:

> "We are of the opinion that the curtailment of revisional jurisdiction of the High Court does not take away — and could not have taken away — the constitutional jurisdiction of the High Court to issue a writ of certiorari to a civil court nor is the power of superintendence conferred on the High Court under Article 227 of the Constitution taken away or whittled down. The power exists, untrammelled by the amendment in Section 115 CPC, and is available to be exercised subject to rules of self-discipline an d practice which are well settled."

After analyzing several judgments, the Supreme Court laid down the following propositions:

(*1*) Amendment by Act 46 of 1999 with effect from 1-7-2002 in Section 115 of the Code of Civil Procedure cannot and does not affect in any manner the jurisdiction of the High Court under Articles 226 and 227 of the Constitution.

(*2*) Interlocutory orders, passed by the courts subordinate to the High Court, against which remedy of revision has been excluded by CPC Amendment Act 46 of 1999 are nevertheless open to challenge in, and continue to be subject to, certiorari and supervisory jurisdiction of the High Court.

(*3*) Certiorari, under Article 226 of the Constitution, is issued for correcting gross errors of jurisdiction i.e. when a subordinate court is found to have acted (*i*) without jurisdiction — by assuming jurisdiction where there exists none, or (*ii*) in excess of its jurisdiction — by overstepping or crossing the limits of jurisdiction, or (*iii*) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no procedure specified, and thereby occasioning failure of justice.

(*4*) Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed

to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.

(*5*) Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied: (*i*) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (*ii*) a grave injustice or gross failure of justice has occasioned thereby.

(*6*) A patent error is an error which is self-evident i.e. which can be perceived or demonstrated without involving into any lengthy or complicated argument or a long-drawn process of reasoning. Where two inferences are reasonably possible and the subordinate court has chosen to take one view, the error cannot be called gross or patent.

(*7*) The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the abovesaid two jurisdictions is sought to be invoked during the pendency of any suit or proceedings in a subordinate court and the error though calling for correction is yet capable of being corrected at the conclusion of the proceedings in an appeal or revision preferred thereagainst and entertaining a petition invoking certiorari or supervisory jurisdiction of the High Court would obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very moment, may become incapable of correction at a later stage and refusal to intervene would result in travesty of justice or where such refusal itself would result in prolonging of the lis.

(*8*) The High Court in exercise of certiorari or supervisory jurisdiction will not convert itself into a court of appeal and indulge in reappreciation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or technical character.

(*9*) In practice, the parameters for exercising jurisdiction to issue a writ of certiorari and those calling for exercise of supervisory jurisdiction are almost similar and the width of jurisdiction exercised by the High Courts in India unlike English courts has almost obliterated the distinction between the two jurisdictions. While exercising jurisdiction to issue a writ of certiorari, the High Court may annul or set aside the act, order

> or proceedings of the subordinate courts but cannot substitute its own decision in place thereof. In exercise of supervisory jurisdiction the High Court may not only give suitable directions so as to guide the subordinate court as to the manner in which it would act or proceed thereafter or afresh, the High Court may in appropriate cases itself make an order in supersession or substitution of the order of the subordinate court as the court should have made in the facts and circumstances of the case.

If this Court was required to examine only the legality and correctness of order dated 24-4-2007, we may have delved on the merits of the contention of Shri S. Ramachandra Rao that while deciding the complaint lodged by respondent No.5, respondent No.7 could not have recorded his statement along with that of the Mandal Revenue Officer and that the officer concerned had shown undue haste in disposing of the complaint, but we cannot overlook the fact that Criminal Revision Case No.1120 of 2007 filed by respondent No.5 against that order was dismissed by the learned Single Judge on 14-8-2007 and as a result of that, the order impugned in the writ petition will be deemed to have been merged in the revisional order.

The question whether the correctness of the order or judgment passed by the High Court in exercise of its appellate or revisional jurisdiction can be examined in a writ petition filed under Article 32 or Article 226 of the Constitution of India has become subject matter of debate in several cases. In **Naresh Shridhar Mirajkar v. State of Maharashtra**[12], a seven Judges Bench of the Supreme Court considered whether the judicial order passed by a Court of competent jurisdiction can be corrected by issue of a writ on the ground of violation of the fundamental rights and whether a writ under Article 32 of the Constitution can be maintained against an order passed by the High Court under Article 226. By a majority judgment, the Supreme Court answered both the questions in negative. Speaking for the majority, Gajendragadkar C.J. observed:

> "When a Judge deals with matters brought before him for

his adjudication, he first decides questions of fact on which the parties are at issue, and then applies the relevant law to the said facts. Whether the findings of fact recorded by the Judge are right or wrong, and whether the conclusion of law drawn by him suffers from any infirmity, can be considered and decided if the party aggrieved by the decision of the Judge takes the matter up before the appellate Court. But it is singularly inappropriate to assume that a judicial decision pronounced by a Judge of competent jurisdiction in or in relation to a matter brought before him for adjudication can affect the fundamental rights of the citizens under Art. 19 (1). What the judicial decision purports to do is to decide the controversy between the parties brought before the Court and nothing more. If this basic and essential aspect of the judicial process is borne in mind, it would be plain that the judicial verdict pronounced by Court in or in relation to a matter brought before it for its decision cannot be said to affect the fundamental rights of citizens. Just as an order passed by the Court on the merits of the dispute before it can be challenged only in appeal and cannot be said to contravene the fundamental rights of the litigants before the Court so could a judicial order collateral to proceedings but directly connected with the proceedings be challenged in appeal under Art. 136 of the Constitution, but it cannot be said to affect the fundamental rights of the petitioners. The character of the judicial order remains the same whether it is passed in a matter directly in issue between the parties or is passed incidentally to make the adjudication of the dispute between the parties fair and effective.

In this connection, it is necessary to refer to another aspect of the matter and that has relation to the nature and extent of the Supreme Court's jurisdiction to issue writs of certiorari under Art. 32 (2). It is well settled that the powers of this Court to issue writs of certiorari under Art. 32 (2) as well as the powers of the High Courts to issue similar writs under Art 226 are very wide. In fact, the powers of the High Courts under Art. 226 are, in a sense, wider than those of the Supreme Court, because the exercise of the powers of the Supreme Court to issue writs of certiorari are limited to the purposes set out in Art. 32 (1). There is yet another aspect of this matter to which it is necessary to refer. The High Court is a superior Court of Record under Art. 215. If the decision of a superior Court on a question of its jurisdiction is erroneous, it can, of course, be corrected by appeal or revision as may be permissible under the law; but until the adjudication by a superior Court on such a point is set aside by adopting the appropriate course, it would not be open to be corrected by the exercise of the writ jurisdiction of the Supreme Court. If

questions about the jurisdiction of superior Courts of plenary jurisdiction to pass orders like the impugned order are allowed to be canvassed in writ proceedings under Art. 32, logically, it would be difficult to make a valid distinction between the orders passed by the High Courts inter partes, and those which are not inter partes in the sense that they bind strangers to the proceedings. Therefore, having regard to the fact that the impugned order has been passed by a superior Court of Record in the exercise of its inherent powers, the question about the existence of the said jurisdiction as well as the validity or propriety of the order cannot be raised in writ proceedings taken out by the petitioners for the issue of a writ of certiorari."

In **Ajit Kumar Barat v. Secretary, Indian Tea Association**[13], the Supreme Court considered the question whether the judgment rendered by it in **Secretary, Indian Tea Association v. Ajit Kumar Barat**[14] could be set aside in a writ petition filed under Article 32 of the Constitution and answered the same in negative. The Supreme Court referred to the earlier judgment of the Larger Bench in **A.R. Antulay v. R.S. Nayak**[15] and held that the said judgment cannot be read as laying down a proposition that the Court can review its judgment by exercising power under Article 32 of the Constitution.

In **Rupa Ashok Hurra v. Ashok Hurra**[16], the Constitution Bench of the Supreme Court was called upon to consider the question whether a petition can be maintained under Article 32 of the Constitution questioning the final order of the Supreme Court. While answering the question in negative, the Constitution Bench made some observations on the High Court's power to issue writ against an order made by one Bench and observed:

"A High Court cannot issue a writ to another High Court, nor can one Bench of a High Court issue a writ to a different Bench of the same High Court; much less can writ jurisdiction of a High Court be invoked to seek issuance of a writ of certiorari to the Supreme Court. Though, the judgments/orders of High Courts are liable to be corrected by the Supreme Court in its appellate jurisdiction under Articles 132, 133 and 134 as

well as under Article 136 of the Constitution, the High Courts are not constituted as inferior courts in our constitutional scheme. Therefore, the Supreme Court would not issue a writ under Article 32 to a High Court. Further, neither a smaller Bench nor a larger Bench of the Supreme Court can issue a writ under Article 32 of the Constitution to any other Bench of the Supreme Court. It is pointed out above that Article 32 can be invoked only for the purpose of enforcing the fundamental rights conferred in Part III and it is a settled position in law that no judicial order passed by any superior court in judicial proceedings can be said to violate any of the fundamental rights enshrined in Part III. It may further be noted that the superior courts of justice do not also fall within the ambit of State or other authorities under Article 12 of the Constitution."

(underlining is ours)

In **Surya Dev Rai v. Ram Chander Rai** (supra), the Supreme Court held that orders and proceedings of a judicial Court subordinate to High Court are amenable to writ jurisdiction of the High Court under Articles 226 and 227 of the Constitution, but reiterated the propositions laid down in **Rupa Ashok Hurra**'s case (supra) by observing that a High Court cannot issue a writ to another High Court nor can one Bench of a High Court issue a writ to other Bench of the same court.

The legal position emerging from the aforementioned judgments is that in exercise of power under Articles 226 or 227 of the Constitution of India, the High Court can issue directions or orders or writs in the nature of writ of certiorari or prohibition qua judicial orders passed by courts subordinate to it or the Tribunals and quasi judicial authorities, but it cannot issue writ against the judicial order passed by the High Court.

If we were to entertain the writ petition and grant relief to the petitioners in terms of the prayer made by them, the same would have amounted to indirectly setting aside the order dated 14-8-2007 passed by the learned Single Judge in Criminal Revision Case No.1120 of 2007 and that cannot be done in view of the legal position stated hereinabove.

The judgments on which Sri S. Ramachandra Rao has

placed reliance do not lay down the proposition that in exercise of power under Articles 226 or 227 of the Constitution, the High Court can set aside the order passed by a coordinate Bench in exercise of the constitutional powers to issue writs or appellate and revisional powers under the Code of Civil Procedure, Code of Criminal Procedure and other legislative instruments. Therefore, the same cannot be relied for entertaining the writ petition because, as mentioned above, order dated 24-4-2007 passed by respondent No.7 has been confirmed by the learned Single Judge in Criminal Revision Case No.1120 of 2007 decided on 14-8-2007. To put it differently, the order, which is subject matter of challenge in this petition, has merged in the order of the learned Single Judge of this Court. Therefore, a writ of certiorari cannot be issued for quashing that order.

In the result, the writ petition is dismissed as not maintainable.

As a sequel to dismissal of the writ petition, WPMP.No.22250 of 2007 filed by the petitioners to call for a status report from District Judge, Kadapa against respondent Nos.7 and 8 is also dismissed.

G.S.SINGHVI, C.J.

17th September, 2007.

C.V.NAGARJUNA REDDY, J

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[1] (1991) 4 SCC 139

[2] (1999) 7 SCC 474

[3] (2003) 6 SCC 675

[4] AIR 2003 SC 4475

[5] (2005) 2 SCC 673

[6] (2006) 6 SCC 395

[7] (1998) 5 SCC 749

[8] AIR 1997 SC 2077

[9] AIR 2000 SC 3094

[10] (2003) 7 SCC 546

[11] (1998) 8 SCC 310

[12] AIR 1967 SC 1

[13] (2001) 5 SCC 42

[14] (2000) 3 SCC 93

[15] (1988) 2 SCC 602

[16] (2002) 4 SCC 388